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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/712,462	11/13/2003	Robert J. South	4003-10701	9318
30652	7590	01/30/2006	EXAMINER	
CONLEY ROSE, P.C. 5700 GRANITE PARKWAY, SUITE 330 PLANO, TX 75024			BOYD, JENNIFER A	
			ART UNIT	PAPER NUMBER
			1771	

DATE MAILED: 01/30/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/712,462

Applicant(s)

SOUTH, ROBERT J.

Examiner

Jennifer A. Boyd

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 03 November 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Response to Amendment***

1. The Applicant's Amendments and Accompanying Remarks, filed November 3, 2005, have been entered and have been carefully considered. Claims 1, 2, 4 – 9 and 11 – 17 are amended and claims 1 – 18 are pending. In view of Applicant's amendments, the Examiner withdraws the 25 USC 112, 2<sup>nd</sup> paragraph rejections as detailed in the previous Office Action. In view of Applicant's amendment requiring that the non-woven fibrous web is "selected to provide loft to a quilt", the Examiner withdraws the rejection over Lachenauer (US 3,922,418) and Chumbley (US 5,716,687) as detailed in the previous Office Action. The invention as currently claimed is unpatentable for reasons herein below.

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

### ***Claim Rejections - 35 USC § 102***

3. Claims 1– 4, 6 – 7, 9 – 16 and 18 are rejected under 35 U.S.C. 102(e) as being anticipated by Repp et al. (US 6,261,397) as evidenced by the packaging for "Quilter's Fusible Batting" by June Tailor which references US Patent No. 6,261,397 and the product contained therein.

Repp is directed to a quilting method and system (Title).

As to claims 1 and 3 - 4, Repp teaches a quilt batting having an outer coating of inactive adhesive (column 2, lines 50 – 65). It is the position of the Examiner that at least a small portion of the adhesive coating will diffuse into the web upon application and serve to adhere at least a

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portion of the fibers together. Repp teaches that the coating is activated by heat (column 3, lines 4 – 20), equated to Applicant's "elevated temperature". Although it may cause damage to the quilt batt, it is the position of the Examiner that the quilt cover can be removed from the fusible quilt batt at room temperature.

As to claim 2, Repp teaches a quilt batting having an outer coating of inactive adhesive (column 2, lines 50 – 65). The packaging for "Quilter's Fusible Batting" by June Tailor indicates that the 85% cotton/15% polyester blend fusible batting can be adhered using a wool setting and repositioned by heating the quilt layer on wool setting.

As to claims 6 – 7, Repp teaches that the batting may comprise 100% cotton, cotton and polyester blends and 100% polyester. Repp comments that presently used batting has included 100% cotton, 100% polyester and 80% cotton/20% polyester blends (column 3, lines 63 – 67 and column 4, lines 1 – 10).

As to claims 9, 11 – 12 and 18, Repp teaches a quilt batting having an outer coating of inactive adhesive (column 2, lines 50 – 65). It is the position of the Examiner that at least a small portion of the adhesive coating will diffuse into the web upon application and serve to adhere at least a portion of the fibers together. Repp teaches that the coating is activated by heat (column 3, lines 4 – 20), equated to Applicant's "elevated temperature". It should be noted that this "elevated temperature" is usually achieved by an iron (claim 3), therefore, the temperature is higher than normal room temperature. Repp teaches that the batting can be temporarily fixed (column 3, lines 20 – 25). "Quilter's Fusible Batting" product is packaged as a rolled batting within a plastic bag. The product can be rolled and unrolled (thus can be folded and unfolded)

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without causing damage to the batting. The level of tackiness that the batting has at room temperature or the manufacturing temperature is equated to Applicant's "first level of tackiness".

As to claim 10, Repp teaches that the batting adhesive can be activated upon a certain level of heat applied by for instance by a hot iron (claim 3); it should be noted that the level of tackiness experienced when ironed is equated to Applicant's "second level of tackiness".

As to claim 13, it should be noted that, although it may cause damage to the quilt batt, it is the position of the Examiner that the quilt cover can be removed from the fusible quilt batt at room temperature.

As to claims 14 - 16, Repp as evidenced by "Quilter's Fusible Batting" product and packaging teaches that the batting may be repositioned by reheating the batting. It should be noted that repositioning involves removing the batting from a substrate, adjusting the location and then allowing to cool.

***Claim Rejections - 35 USC § 103***

4. Claims 5, 8 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Repp et al. (US 6,261,397) as evidenced by the packaging for "Quilter's Fusible Batting" by June Tailor which references US Patent No. 6,261,397 and the product contained therein, as applied above, in view of Stow (US 4,880,683).

Repp teaches that the preferred adhesive is a heat-activated adhesive which upon heating converts from an inactive adhesive to a bonding state (column 3, lines 1 - 5). Repp fails to teach specific details about the type of adhesive used.

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Stow is directed to a hot-tackifying tape comprising an acrylic polymer adhesive layer. The acrylic polymer layer is inherently non-tacky or poorly tacky at room temperature but at any temperature over a wide range of elevated temperatures, it becomes tacky and adheres upon contact to clean substrates without the application of significant pressure (Abstract). Stow teaches that the acrylic adhesive provides a good bond without the necessity of crosslinking or other chemical reactions (Abstract). Stow notes that the tape of the invention can be shipped and stored in commerce and later put to use with the same effect as freshly prepared tape (column 2, lines 40 – 50).

Since Repp lacks disclosure to specific details of the adhesive layer and only provides its desired functional capabilities, it would have been necessary and thus obvious for one of ordinary skill in the art practicing the invention of Repp to look to the prior art as exemplified by Stow to provide the details of the adhesive. As hot-tackifying acrylic adhesive provides a strong yet reversible bond with a substrate, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use the adhesive of Stow in the invention of Repp, motivated by the expectation of successfully practicing the invention of Repp.

### ***Response to Arguments***

5. Applicant's arguments filed November 3, 2005 have been fully considered but they are not persuasive.

6. Applicant argues that Repp at no point teaches or suggests that the adhesive may be heat activated to bond a quilt cover to a batt, after which the cover may be removed from the batt at a room temperature and reapplied by application of heat, all without damage to the batt. The

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Examiner submits that the adhesive bond between the quilt and the batting could be pulled apart but would possibly result in damage to the batt. It should be noted that Applicant does not require in the claim that the batt would not be damaged upon removal at room temperature. Furthermore, the packaging of "Quilter's Fusible Batting" indicates that the product in Repp patent 2,261,397 is repositionable when heat is applied as required by claims 15 – 16.

7. Applicant indicates that actual experience shows that the adhesive used in the June Tailor product does not permit easy peeling of a cover from a batting even after reheating as suggested. It should be noted that Applicant's arguments do not suffice as evidence. The Applicant is required to submit evidence to support the assertion that the adhesive in the June Tailor product does not permit easy peeling.

8. Applicant has submitted various publications and testimonials to support Applicant's claim that the product of the instant invention is repositionable and removable at room temperature. Although the publications provide good general information about Applicant's product, they do not provide any information supporting Applicant's assertion that the adhesive in the June Tailor product does not permit easy peeling.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jennifer A. Boyd whose telephone number is 571-272-1473. The examiner can normally be reached on Monday thru Friday (8:30am - 6:00pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on 571-272-1478. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Jennifer Boyd  
January 20, 2006



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